

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GLOBAL PAYROLL INVESTORS LLC f/k/a  
EXPATICORE SERVICES LLC and  
DAVID LEBOFF,

2:23 pm, Aug 09, 2021

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

Plaintiffs,

-against-

ADOPTION ORDER  
20-CV-4508 (JS) (AYS)

IMMEDIS, INC.,

Defendant.

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APPEARANCES

For Plaintiffs: Jason L. Abelow, Esq.  
Law Office of Jason L. Abelow, P.C.  
666 Old Country Road, Suite 303  
Garden City, New York 11530

For Defendant: Lisa Angela Perillo, Esq.  
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285 West Main Street, Suite 203  
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Wheaton, Illinois 60189

SEYBERT, District Judge:

Plaintiffs Global Payroll Investors LLC f/k/a Expaticore Services LLC and David Leboff (together, "Plaintiffs") commenced this diversity action alleging that defendant Immedis, Inc. ("Defendant") breached certain portions of a Purchase Agreement, Promissory Note, and an Employment Agreement. (Compl., ECF No. 1.) On January 11, 2021, Defendant filed a motion to dismiss Count Three of the Complaint, arguing Plaintiffs' a claim for breach of

the covenant of good faith and fair dealing should be dismissed as duplicative of the breach of contract claim. (Mot., ECF No. 17; Def. Br., ECF No. 15; Decl., ECF No. 16; Pls. Opp, ECF No. 18; Reply, ECF No. 19.)

On May 5, 2021, this Court referred the motion to Magistrate Judge Anne Y. Shields for a report and recommendation. (See May 5, 2021 Elec. Order.) On July 13, 2021, Judge Shields issued a Report and Recommendation ("R&R") and recommended that the Court deny Defendant's motion. (See generally R&R, ECF No. 21.) Specifically, Judge Shields found that Plaintiffs adequately stated a claim for breach of the implied covenant of good faith and fair dealing separate and apart from the breach of contract claim. (Id. at 7; see generally id. at 6-7.) She further concluded that "[w]hile the claims are obviously related, they are indeed distinct claims" and "evidence adduced during discovery could change this finding." (Id. at 7.)

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The time to object has expired and no objections to the R&R have been filed. Upon careful review and consideration, the Court finds Judge Shields' R&R to be comprehensive, well-reasoned, and free of clear error. Accordingly, the Court ADOPTS the R&R (ECF No. 21) in its entirety and Defendant's motion to dismiss Count Three of the Complaint (ECF No. 15) is DENIED.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: August 9, 2021  
Central Islip, New York